

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CHARLIE THORNTON,)	
Plaintiff,)	
)	CIVIL ACTION NO.: 05-10210-RGS
v.)	
)	
UNITED PARCEL SERVICE, INC.,)	
Defendant.)	
)	

JOINT PRE-TRIAL MEMORANDUM

The Parties respectfully submit the following Pre-Trial Memorandum:

1. **AGREED UPON FACTS**

Plaintiff was hired by U.P.S. in 1968 and retired in 2002.

2. **WITNESSES THAT MAY BE CALLED AT TRIAL**

Plaintiff

1. Plaintiff, 6 Pinedale Avenue, Billerica, MA 01821
2. Plaintiff's Wife, same as above
3. Brent Belz
4. Tony Harrington
5. Ken Mundry
6. Holly Manzo
7. Dennis Ray
8. Robert Ducheneau
9. Tom Rodakis
10. Timmy O'Brien
11. Mike Monteif

12. Mike Koza
13. Dr. Ralph Wolf
14. Bob Ritchie
15. Mike O’Gara
16. Dr. George Karsparyan
17. Dr. Hawkins
18. Jeff Heath
19. John Greene
20. Robin Cline
21. Sandy Cyr
22. Jacci Gilbride

Plaintiff reserves the right to call any witness on the Defendants’ witness list and to supplement his list.

Defendant

23. Mike Szloch, UPS, Norwood, MA
24. Ken Mundry, UPS, Dover, NH
25. Holly Manzo, UPS, One Wall Street, Hudson, NH
26. Robert Ritchie (ret.)

Defendant reserves the right to supplement this list.

3. DEPOSITIONS OR INTERROGATORIES TO BE OFFERED AT TRIAL

Plaintiff

None, except for impeachment purposes.

Defendant

Defendant may offer portions of Plaintiff's deposition testimony and answers to interrogatories as necessary as admissions of a party opponent.

4. **EXHIBITS**

Agreed

1. Collective Bargaining Agreement and New England Supplement 1997-2001
2. Collective Bargaining Agreement and New England Supplement 2002-2008
3. Thornton Annual Bid Sheet 2000
4. Thornton Annual Bid Sheet 2001
5. Second Thornton Bid Sheet 2001
6. Thornton Annual Bid Sheet 2002
7. Job Classifications dated 2/08/00
8. Chelmsford Job List Week Ending 9/23/00
9. Chelmsford Job List Week Ending 9/30/00
10. Chelmsford Job List Week Ending 1/6/01
11. Chelmsford Job List Week Ending 1/13/01
12. Chelmsford Job List Week Ending 2/3/01
13. Chelmsford Job List Week Ending 2/10/01
14. Chelmsford Job List Week Ending 2/24/01
15. Chelmsford Job List Week Ending 3/3/01
16. Chelmsford Job List Week Ending 3/10/01
17. Chelmsford Job List Week Ending 3/17/01
18. Chelmsford Job List Week Ending 3/24/01
19. Chelmsford Job List Week Ending 3/31/01

20. Chelmsford Job List Week Ending 4/7/01
21. June 20, 2001 Posting re: Job change effective 7/16/01
22. Chelmsford Job List Week Ending 7/14/01
23. Chelmsford Job List Week Ending 7/21/01
24. Chelmsford Job List Week Ending 11/3/01
25. Chelmsford Job List Week Ending 11/10/01
26. Chelmsford Job List Week Ending 11/17/01
27. Chelmsford Job List Week Ending 1/5/02
28. Chelmsford Job List Week Ending 2/2/02
29. Results of Annual Bid (Effective March 25, 2002)
30. Chelmsford Job List Week Ending 9/14/02
31. Chelmsford Job List Week Ending 9/17/02
32. Local 25 Seniority List 2000
33. Local 25 Seniority List 2001
34. Local 25 Seniority List 2002
35. Dr. Franchi Authorization dated 5/9/00
36. Dr. Kasparyan letter dated 7/10/00
37. Dr. Franchi Authorization dated 7/11/00
38. Dr. Kasparyan letter dated 7/26/00
39. Letter from Bob Ritchie to R. Reardon dated 8/9/00
40. Dr. Wolf office note dated 9/13/00
41. DOT Physical Examination dated 9/31/00 [sic]
42. Health Stop, Inc. Medical Record dated 3/14/01

- 43. Dr. Wolf medical evaluation dated 9/21/01
- 44. DOT physical evaluation report dated 9/16/02
- 45. Dr. Kramer record dated 9/19/02
- 46. Dr. Haffner record dated 12/6/02
- 47. MCAD 7/27/00 Charge of Discrimination
- 48. MCAD 8/30/01 Charge of Discrimination
- 49. Earnings Statements 2000-04
- 50. Lahey Clinic Patient Appointment Report dated 1/28/05

5. OBJECTED-TO EXHIBITS TO BE OFFERED AT TRIAL

Plaintiff

- A. 1993 Charge and Dismissal
- B. Various EEOC determinations and judicial opinions.
- C. 12/14/99 email from Lisa Courtois to Holly Manzo
- D. Worker's Compensation Memo dated 3/1/00
- E. 5/11/00 email from Jacci Gilbride to Ralph Archer
- F. 6/11/00 email from Robin Cline to Ralph Archer
- G. Charlie Thornton Case Manager Summary, date of accident 11/9/99
- H. Charlie Thornton Medical Summary, date of accident 11/9/99
- I. Worker's Compensation Memo dated 7/11/00
- J. Worker's Compensation Memo dated 7/24/00
- K. Undated memo from "Robin" to "Jacci"
- L. Worker's Compensation Memo dated 3/13/01
- M. Worker's Compensation Memo dated 11/16/01
- N. 2002 DET finding

O. Email to Bob Ritchie from Mike O’Gara sent on or about 5/11/00

P. Email to Mike O’Gara from Tony Harrington dated 5/11/00

Defendant

Q. Feeder Driver Job Description

R. Dr. Hawkins letter to Liberty Mutual dated 1/20/01

S. Dr. Epstein record dated 3/13/03

T. Dr. Comforti letter to Attorney St. Pierre dated 4/18/03

U. Lump Sum Agreement

V. MCAD decision dated 12/18/02

W. August – November 2002 documents settling Thornton’s 2000 lost pay grievance.

X. MCAD decision dated 2003

Y. SSDI documents produced by Thornton

Z. Plaintiff’s Interrogatory Response stating unemployment compensation benefits received in 2002 and 2003

AA. Lahey Clinic Notes (front page dated 12/13/05)

Defendant reserves the right to supplement this list.

6. MOTIONS IN LIMINE

Filed separately by counsel.

7. TRIAL MEMORANDUM

Filed separately by counsel.

8. PROBABLE LENGTH OF TRIAL

One week.

9A. JURY INSTRUCTIONS

Filed separately by counsel.

9B. PROPOSED OR SPECIAL VERDICT QUESTIONS

Filed separately by counsel.

9C. PROPOSED VOIR DIRE QUESTIONS

Filed separately by counsel.

9D. STATEMENT SUMMARIZING PRINCIPAL CLAIMS AND DEFENSES OF THE PARTIES

Plaintiff filed his statement along with his proposed voir direct questions.

Defendant objects to the plaintiff's statement and submits the following: Mr. Thornton, at all times relevant to this action, was a tractor trailer driver for UPS. During the course of his employment at UPS, Mr. Thornton had various injuries and workers' compensation claims. In September 2002, Mr. Thornton did not pass a required test to maintain his tractor trailer license. Shortly thereafter, he retired from UPS. Mr. Thornton claims that UPS discriminated against him on the basis of a disability. UPS denies that Mr. Thornton had a disability under the law and it further denies that it discriminated against Mr. Thornton.

DATED: February 5, 2008

United Parcel Service
By its attorneys

Respectfully Submitted,

Plaintiff Charlie Thornton
By his attorneys

/s/ Elizabeth A. Kowal
Barry J. Waters, BBO #645595
bwaters@murthalaw.com
Elizabeth A. Kowal, BBO #646326
ekowal@murthalaw.com
Murtha Cullina LLP
99 High Street
Boston, MA 02110
617-457-4000

//s// Michael Tumposky
Stephen Hrones
BBO # 242860
Jessica D. Hedges
BBO # 645847
Michael Tumposky
BBO # 660618
Hrones, Garrity & Hedges, LLP
Lewis Wharf-Bay 232
Boston, MA 02110-3927
T) 617-227-4019